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| 10/624,098 | 07/21/2003 | Bradley R. Bowman | 2000874.00153US1 | 6122 |
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| WILMERHALE/BOSTON 60 STATE STREET BOSTON, MA 02109 | | | EXAMINER RAPILLO, KRISTINE K | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|------------------------------|--|--------------------------------------|--|
| Office Action Summary | Application No. 10/624,098 | Applicant(s) BOWMAN ET AL. | |
| | Examiner KRISTINE K. RAPILLO | Art Unit 3626 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 27-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/21/2003; 3/7/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment submitted August 13, 2008. Claims 1 – 9 and 12 – 20 are amended. Claims 27 – 32 are cancelled. Claims 1 – 26 are presented for examination.

Drawings

2. The objection to the drawings is hereby withdrawn based upon the amendment submitted August 13, 2008.

Claim Rejections - 35 USC § 102

3. The 35 USC 102 (b) rejections of claims 1, 5, 7, 12, 16, and 18 are hereby withdrawn base upon the amendment submitted August 13, 2008.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 - 5, 7, and 12 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article entitled "WellMed Introduces Industry's First Comprehensive Personal Health Management System Including Online Health Record" (WellMed, Inc., Oregon, August 23, 1999. PR Newswire), hereinafter WellMed in view of Goodman (U.S. Patent Number 5,827,180).

In regard to claim 1 (Currently Amended), WellMed teaches a computer-implemented communication method (paragraph 2) comprising:

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- from each of a plurality of receiving users, receiving corresponding personal health message receiving criteria for determining messages to be received by that receiving user (paragraph 8 - where WellMed offers a patient the option to join a health improvement program such as smoking cessation), the corresponding personal health message receiving criteria for each user including health categories that are relevant to that receiving user (paragraph 8 - where users can receive data customized to their interest and condition);
- from a transmitting user, receiving a message and personal health message transmitting criteria for directing the received message to other users (paragraph 9) where it describes allowing access to a school, new doctor, and more. WellMed fails to explicitly teach a method comprising the personal health message transmitting criteria including health categories that are relevant to the received message or to the transmitting user;
- comparing the personal health message receiving criteria for each of the plurality of receiving users to the personal health message transmitting criteria to identify those users among the plurality of receiving users to whom the received message should be transmitted (paragraph 16 – where WellMed discloses a system in which patients with the same or similar conditions can be connected); and
- transmitting the received message to the identified users among the plurality of receiving users (paragraph 16).

Goodman teaches a method comprising the personal health message transmitting criteria including health categories that are relevant to the received message or to the transmitting user (column 10, lines 29 – 36).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method comprising the personal health message transmitting criteria including health categories that are relevant to the received message or to the transmitting user as taught by Goodman, within the method of WellMed, with the motivation of providing a personal health network (column 2, lines 44 – 45).

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In regard to claim 2 (Currently Amended), WellMed teaches the method of claim 1 in which the received message is transmitted to each identified receiving user without disclosing the identity of the receiving user to the transmitting user (paragraph 16).

In regard to claim 3 (Currently Amended), WellMed teaches the method of claim 1 in which the identified receiving users include those for whom the personal health message receiving criteria include all of the personal health message transmitting criteria (paragraph 15).

In regard to claim 4 (Currently Amended), WellMed teaches the method of claim 1 in which the identified receiving users include those for whom the personal health message receiving criteria include at least selected ones of the personal health message transmitting criteria (paragraph 6).

In regard to claim 5 (Currently Amended), WellMed teaches the method of claim 1 wherein receiving corresponding personal health message receiving criteria from each of a plurality of receiving users includes receiving identifier of a health condition that relates to that receiving user and is selected from among predefined health conditions (paragraphs 8, 13, and 15).

In regard to claim 7 (Currently Amended), WellMed teaches the method of claim 1 wherein receiving personal health message transmitting criteria includes receiving identifier of a health condition that relates to the transmitting user and is selected from among predefined health conditions (paragraphs 8, 13, and 15).

Computer readable medium claims 12 – 16 repeat the subject matter of method claims 1 - 5, and 7 as a set of apparatus elements rather than a series of steps. As the underlying elements of claims 1 - 5 and 7 have been shown to be fully disclosed by the teachings of WellMed and Goodman in the above rejection of claims 1 - 5 and 7 it is readily apparent that the computer readable medium claims disclosed

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by WellMed and Goodman perform the method steps. As such, the limitations of claims 12 – 16 are rejected for the same reasons given above for method claims 1 - 5 and 7, and incorporated herein.

6. Claims 6, 8 – 11, 17, and 19 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over WellMed and Goodman, further in view of the article entitled "WellMed and Lexical Technology Announce Joint Development Agreement of Online Consumer Health Records," (PR Newswire. New York; Feb 18, 1999, Page 1), herein after Lexical.

In regard to claim 6 (Currently Amended), WellMed and Goodman teach the method of claim 1. WellMed further teaches a method wherein receiving corresponding personal health message receiving criteria from each of a plurality of receiving users (paragraph 16) includes receiving identifier of a user-defined health condition that relates to that receiving user (paragraphs 8, 15, and 16).

WellMed and Goodman fail to teach the method further including correlating the user-defined health condition with a health terminology thesaurus having concept unique identifiers that correspond to and provide uniform characterizations of the user-defined health condition.

Lexical teaches a method further including correlating the user-defined health condition with a health terminology thesaurus having concept unique identifiers that correspond to and provide uniform characterizations of the user-defined health condition (paragraph 3).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method further including correlating the user-defined health condition with a health terminology thesaurus having concept unique identifiers that correspond to and provide uniform characterizations of the user-defined health condition as taught by Lexical, within the method of WellMed and Goodman with the motivation of providing a usable search tool for personal online health information (paragraph 7).

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In regard to claim 8 (Currently Amended), WellMed and Goodman teach the method of claim 1. WellMed and Goodman fail to teach a method wherein receiving personal health message transmitting criteria includes receiving identifier of a user-defined health condition that relates to the transmitting user, the method further including correlating the user-defined health condition with a health terminology thesaurus.

Lexical teaches a method wherein receiving personal health message transmitting criteria includes receiving identifier of a user-defined health condition that relates to the transmitting user, the method further including correlating the user-defined health condition with a health terminology thesaurus (paragraph 3).

The motivation to combine the teachings of WellMed and Lexical is discussed in the rejection of claim 6, and incorporated herein.

In regard to claim 9 (Currently Amended), WellMed and Goodman teach the method of claim 1. WellMed further discloses comprising obtaining from each receiving user and the transmitting user personal health-related information about the that user, the health-related information including one or more health-related terms that each corresponds to a health-related concept (paragraphs 8, 15, and 16); and correlating with a health terminology thesaurus each of the one or more health-related terms with a single concept unique identifier that uniquely identifies a corresponding health-related concept, each concept unique identifier having associated with it one or more terms corresponding to a common health-related concept, ones of the terms being lay medical terms and not clinical medical terms (paragraph 3).

In regard to claim 10 (Original), WellMed and Goodman teach the method of claim 9. Goodman further teaches a method in which computer implementation of the method employs a client computer and a server computer that are interconnected by a computer network the method further comprising:

- providing at the client computer a user interface with which each user provides the personal health-related information about the user, the health-related information being defined by one or more health-related terms (column 13, lines 3 – 55) – Goodman teaches a method in which the

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health related information is relayed to a host computer as well as supplemental user information (i.e. doctor appointment, medication);

- transmitting the personal health-related information about the user over the computer network to the server computer, (column 13, lines 3 – 55); and
- correlating each of the one or more health-related terms with a single concept unique identifier at the server computer (column 8, lines 37 – 63).

WellMed and Goodman fail to teach a method comprising the server computer storing the health terminology thesaurus.

Lexical teaches a method comprising the server computer storing the health terminology thesaurus (paragraph 3).

The motivation to combine the teachings of WellMed, Goodman, and Lexical is discussed in the rejection of claim 6, and incorporated herein.

In regard to claim 11 (Original), WellMed teaches the method of claim 10 in which the computer network includes the Internet (paragraphs 5 and 18).

Computer readable medium claims 17 and 19 - 22 repeat the subject matter of method claims 6 and 8 - 11 as a set of apparatus elements rather than a series of steps. As the underlying elements of claims 6 and 8 - 11 have been shown to be fully disclosed by the teachings of Goodman in the above rejection of claims 6 and 8 - 11 it is readily apparent that the computer readable medium claims 17 and 19 - 22 disclosed by Goodman perform the method steps. As such, these limitations for claims 17 and 19 - 22 are rejected for the same reasons given above for method claims 6 and 8 - 11 and incorporated herein.

7. Claims 23 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of WellMed.

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In regard to claim 23 (Original), Goodman teaches a computer-readable medium (column 7, lines 60 –65).

Goodman fails to teach a data structure comprising: personal health message receiving criteria associated with receiving users for determining messages to be received from other users who conform to the personal health message receiving criteria, the personal health message receiving criteria including personal or health characteristics relating to the receiving users; and personal health message transmitting criteria associated with transmitting users for directing a selected message to other users whose personal health message receiving criteria conform to the personal health message transmitting criteria, the personal health message transmitting criteria including personal or health characteristics relating to the transmitting users.

WellMed teaches a data structure comprising: personal health message receiving criteria associated with receiving users for determining messages to be received from other users who conform to the personal health message receiving criteria, the personal health message receiving criteria including personal or health characteristics relating to the receiving users (paragraphs 8 and 16); and personal health message transmitting criteria associated with transmitting users for directing a selected message to other users whose personal health message receiving criteria conform to the personal health message transmitting criteria, the personal health message transmitting criteria including personal or health characteristics relating to the transmitting users (paragraphs 8 and 16).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a data structure comprising: personal health message receiving criteria associated with receiving users for determining messages to be received from other users who conform to the personal health message receiving criteria, the personal health message receiving criteria including personal or health characteristics relating to the receiving users; and personal health message transmitting criteria associated with transmitting users for directing a selected message to other users whose personal health message receiving criteria conform to the personal health message transmitting criteria, the personal health message transmitting criteria including personal or health characteristics relating to the transmitting users as taught by WellMed, within the structure of Goodman, with the

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motivation of providing online tools that simplify the access and control of health or medical information (paragraph 6).

In regard to claim 24 (Original), Goodman teaches the data structure of claim 23 in which one or more of the personal health message receiving criteria and the personal health message transmitting criteria are correlated with concept unique identifiers that uniquely identify health-related characteristics (column 8, lines 37 – 63).

In regard to claim 25 (Original), Goodman teaches the data structure of claim 24 in which each concept unique identifier includes numeric characters (column 6, lines 16 – 42).

In regard to claim 26 (Original), Goodman teaches the data structure of claim 24 in which each Concept unique identifier includes alpha-numeric characters (column 6, lines 16 – 42).

Response to Arguments

8. Applicant's arguments filed August 13, 2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed August 13, 2008.

In response to the applicant argument, it is respectfully submitted that the Examiner has applied new passages and new citations to amended claims 1 – 5, 7, and 12 – 16. The Examiner notes that the amended limitations were not in the previously pending claims as such; Applicant's remarks with regard to the application of WellMed and Goodman to the amended limitations are addressed in the above Office Action.

In response to the applicant argument, it is respectfully submitted that the Examiner has applied new prior art to the amended claims 6, 8 – 11, 17, and 19 -22. The Examiner notes that the amended limitations were not in the previously pending claims as such; Applicant's remarks with regard to the

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application of WellMed and Goodman to the amended limitations are moot in light of the addition of the Lexical reference.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626